



HUMAN RESOURCES OFFICE TECHNICIAN / AGR ADMINISTRATIVE INSTRUCTION

Number: 04-55

14 September 2004

Backfill of Deployed Technicians during Emergency and Contingency Operations

1. Dual Status (DS) Flexibilities – The following DS authorities are provided to fill positions affected by or needed to deal with the aftermath of the 11 September 2001 attacks. Such positions include appointments to fill behind a technician called to active duty under the 14 September 2001, Partial Reserve Call Up. National Guard Bureau has added these emergency flexibilities to the DS Technician Program. These authorities will remain in affect until the President or Congress terminates the state of national emergency, or until otherwise notified by this office.

a. Indefinite appointments may be made without regard to the requirements for competition as stated in TPR 316, TPR 335, and the California National Guard Merit Placement Plan.

b. Compatibility requirements for indefinite positions are expanded to include all units of assignment as well as all MOS and AFSCs for a period of time up to two years.

c. Temporary promotions for time periods not-to-exceed one year may be made without regard to the requirement for competition stated under TPR 335 and the California National Guard Merit Placement Plan.

2. Non-Dual Status (NDS) Flexibilities - In light of ongoing contingency operations and declaration of a National State of Emergency, the Directorate for Human Resources may backfill a DS technician position with a NDS employee using emergency hiring flexibilities when the incumbent has been deployed. Additionally, the following conditions must be met prior to any appointment action:

a. The DS technician must be deployed, not-in-place, in support of current emergency or contingency operations.

b. All NDS technicians hired to backfill a DS position must be hired temporarily under Temporary Emergency Need appointment. Temporary Emergency Need (5 CFR 213.3102(i)(3)) appointments may be made by the Directorate for Human Resources (until the President or Congress terminates the state of national emergency) on a temporary basis for up to one year, and may be extended for an additional period of time not exceeding one more year for positions affected by or needed to deal with the aftermath of the attacks. Requests beyond the two year limit require Department of Defense approval.

c. The respective NGB functional manager must approve all NDS waivers to DS Position Descriptions. The Directorate for Human Resources coordinates this with NGB-J1-TNS who in turn coordinates the waiver with the functional manager.

d. NDS position descriptions must be developed/approved by the NGB Position Management and Classification Division (NGB-J1-TNC). DS position descriptions are not approved for use by NDS employees. NDS positions established for this purpose will be limited to the incumbent of the position for the specified time period of the appointment.

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e. A reasonable effort must be made to fill the DS position with a military member meeting the DS criteria prior to filling the position with an NDS incumbent. Requests for NDS backfill of mobilized DS employees must address the efforts at the local level and/or vacancy announcements to fill the mission need. Conversely commanders, managers, supervisors may make an assessment that there reasonably would be no qualified DS applicants available and to publish a vacancy announcement would be detrimental to mission accomplishment.

3. Appointments under emergency hiring flexibilities are exceptions to traditional competitive appointments. Therefore qualifications are determined by the Directorate for Human Resources. Technicians hired under this guidance are afforded the same rights, opportunities and privileges of other National Guard Technicians with similar status. Additionally, appointments under these authorities are exempted from mandatory placement provisions of the Defense Priority Placement Program.

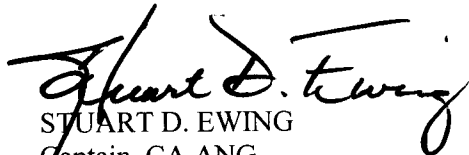
4. Re-employed Annuitants – This applies to former Federal Employees who have retired and are currently receiving a Federal Civil Service retirement annuity. Section 9902(j) of Title 5 USC, gives the agency authority to hire and set salary of newly appointed annuitants, i.e., individuals receiving an annuity from the Civil Service Retirement and Disability Fund, at the appropriate pay rate for the position without a reduction in pay or of the annuity. As a result, the salary of the annuitant is not offset by the amount of the annuity received for the period of employment. Requests to utilize this authority for DS or NDS employees must be requested in writing to the Directorate for Human Resources. When this authority is used in conjunction with emergency hire flexibilities it applies for the length of the appointment (and any authorized extensions). Generally, an annuitant may not be employed in the same position held prior to retirement unless the next level manager or supervisor (in most situations the appropriate Chief of Staff) has given approval.

5. Requests to use these exceptions must be made by memorandum addressed to this office and must include, as a minimum, the name of the mobilized technician who is being backfilled, the start and stop dates of the mobilized technician's current active duty orders, the emergency hiring flexibility requested, and certification that the position is necessary for mission accomplishment. This memorandum should accompany the complete documentation required to implement the requested personnel action.

6. Technicians hired under these exceptions are afforded the same rights, opportunities, benefits and privileges of other National Guard Technicians with similar status.

7. Under no circumstances will a Commander, Director, or supervisor/manager advise a new employee to begin working in a position without prior confirmation from the Directorate for Human Resources.

8. For additional information, contact CMSgt Michael Hunt at DSN 466-3354, or (916) 854-3354; or TSgt Kenneth Cosgrove at DSN 466-3598, or (916) 854-3598.


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